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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/862,502

05/23/2001

Gerhard Dittrich

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12/01/2006

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EXAMINER

SHERR, CRISTINA O

ART UNIT

PAPER NUMBER

3621

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/862,502

Applicant(s)

DITTRICH, GERHARD

Examiner

Cristina Owen Sherr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/25/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This communication is in response to applicant's amendment filed November 14, 2005. Claims 8, 14, 15, and 26 have been amended. Claims 1-7 have been canceled. Claims 8-26 are currently pending in this case.

#### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on October 25, 2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statement.

#### ***Response to Arguments***

3. Applicant's arguments with respect to claims 8-26 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimura (US 6,176,826) in view of Budike, Jr. (US 6,904,385), further in view of Mulokey et al (US 4,661,914).

5. Regarding claim 8 –

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Shimura discloses a method for providing measured values for end customers, comprising the steps of recording a measured value for a process variable using a sensor S1, S2, S3 (e.g. col 4 ln 20-35)

6. Shimura does not disclose, but Budike does, calculating the costs for the end customer on the basis of the number of the transmission operations (e.g. col 7 ln 25 – col 8 ln 55).

7. Further, neither Shimura nor Budike specifically disclose counting the number of transmission operations. However, official notice is taken that counting the number of operations is old, well-known and necessary in anything having to do with monitoring and accounting as occurs in both Budike and Shimura. Specifically, you can't know what is going on, what is and how much of everything is being used, how much everyone has to be paid, etc unless you count. One example of such is in Mulokey (e.g. abs) where each address count is incremented by one after each group of bits is received.

8. It would be obvious for one of ordinary skill in the art to combine the teachings of Budike, Mulokey, and Shimura in order to more easily calculate costs to the consumer. Further, it would be obvious in any event, to utilize the readings obtained by the apparatus in Shimura in order to calculate costs, payment, amounts, etc.

9. Regarding claim 9 –

Shimura discloses the method as defined in claim 8, wherein the data transmission between sensor S 1, S2, S3 and the process control system PLS takes place in line-conducted fashion, using, for example, a data bus system DBS (e.g. col 4 ln 20-35).

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10. Regarding claim 10 –

Shimura discloses the method as defined in claim 8, wherein the data transmission between sensors S1, S2, S3 and the process control system PLS takes place by radio (e.g. abstract).

11. Regarding claim 11 –

Shimura discloses the method as defined in claim 8, wherein the number A is stored in the sensor S1, S2, S3 (e.g. col 4 ln 20-35).

12. Regarding claim 12 –

Shimura discloses the method as defined in claim 9, wherein the number A is stored in the sensor S1, S2, S3 (e.g. col 4 ln 20-35)

13. Regarding claim 13 –

Shimura discloses the method as defined in claim 10, wherein the number A is stored in the sensor S1, S2, S3 (e.g. col 4 ln 20-35).

14. Regarding claim 14 –

Shimura discloses the method as defined in claim 8, wherein the number A is stored in the process control system PLS (e.g. fig. 1).

15. Regarding claim 15 –

Shimura discloses the method as defined in claim 9, wherein the number A is stored in the process control system PLS (e.g. fig 1).

16. Regarding claim 16 –

Shimura discloses the method as defined in claim 8, wherein the measured values are transmitted over the internet from the sensor S1, S2, S3 to a database at the field

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transmitter manufacturer, to which data base the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted (e.g. fig 1).

17. Regarding claim 17 –

Carrier discloses the method as defined in claim 9, wherein the measured values are transmitted over the internet from the sensor S 1, S2, S3 to a database at the field transmitter manufacturer, to which database the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted (e.g. fig 4).

18. Regarding claim 18 –

Shimura discloses the method as defined in claim 10, wherein the measured values are transmitted over the internet from the sensor S1, S2, S3 to a database at the field transmitter manufacturer, to which database the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted (e.g. fig 4).

19. Regarding claim 19 –

Shimura discloses the method as defined in claim 11, wherein the measured values are transmitted over the internet from the sensor S1, S2, S3 to a database at the field transmitter manufacturer, to which database the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted (e.g. fig 4).

20. Regarding claim 20 –

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Shimura discloses the method as defined in claim 12, wherein the measured values are transmitted over the internet from the sensor S1, S2, S3 to a database at the field transmitter manufacturer, to which database the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted (e.g. fig 4).

21. Regarding claim 21 –

Shimura discloses the method as described in claim 8, wherein the measured values are transmitted by radio from the sensor S1, S2, S3 to a database at the field transmitter manufacturer, to which database the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted (e.g. col 4 ln 20-35).

22. Regarding claim 22 –

Shimura discloses the method as defined in claim 9, wherein the measured values are transmitted by radio from the sensor S1, S2, S3 to a database at the field transmitter manufacturer, to which database the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted (e.g. abstract).

23. Regarding claim 23 –

Shimura discloses the method as defined in claim 10, wherein the measured values are transmitted by radio from the sensor S1, S2, S3 to a database at the field transmitter manufacturer, to which database the end customer likewise has access over the

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internet, and wherein the number of database access operations by the end customer to this database is counted ((e.g. col 4 ln 20-35)

24. Regarding claim 24 –

Shimura discloses the method as defined in claim 11, wherein the measured values are transmitted by radio from the sensor S1, S2, S3 to a database at the field transmitter manufacturer, to which database the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted (e.g. fig 4).

25. Regarding claim 25 –

Shimura discloses the method as defined in claim 12, wherein the measured values are transmitted by radio from the sensor S1, S2, S3 to a database at the field transmitter manufacturer, to which database the end customer likewise has access over the internet, and wherein the number of database access operations by the end customer to this database is counted (e.g. fig 4).

26. Regarding claim 26 –

Shimura discloses a method for selling measured values to end customers, comprising the steps of: recording a measured value for a process variable using a sensor S1, S2, S3; transmitting the measured value to a process control system PLS (e.g. col 4 ln 20-35).

28. Shimura does not disclose, but Budike does, calculating the costs for the end customer on the basis of the number of the transmission operations (e.g. col 7 ln 25 – col 8 ln 55).



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29. Further, neither Shimura nor Budike specifically disclose counting the number of transmission operations. However, official notice is taken that counting the number of operations is old, well-known and necessary in anything having to do with monitoring and accounting as occurs in both Budike and Shimura. Specifically, you can't know what is going on, what is and how much of everything is being used, how much everyone has to be paid, etc unless you count. One example of such is in Mulokey (e.g. abs) where each address count is incremented by one after each group of bits is received.

30. It would be obvious for one of ordinary skill in the art to combine the teachings of Budike, Mulokey, and Shimura in order to more easily calculate costs to the consumer. Further, it would be obvious in any event, to utilize the readings obtained by the apparatus in Shimura in order to calculate costs, payment, amounts, etc.

31. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Conclusion***

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32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

33. Holowick (US 6,710,721) discloses a radio frequency automated meter reading device.

34. Shimura et al (US 6,110,108) discloses a home care system, center terminal and patient terminal.

35. Takagi et al (US 6,535,118) discloses a priority controlled network, including accounting server.

36. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 571-272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

37. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on 571-272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

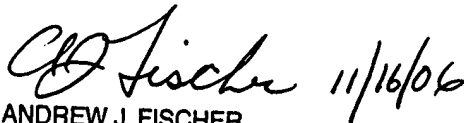
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38. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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Patent Examiner, Au 3621



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